

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150

Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES**

JUNE 18, 2002

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Ron Alvarado, President
William Elkins, Vice President
Florence Bos, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn
(Report given by Elise S. Rose, Chief Counsel)

The Board was advised on the following:

- A. Chief Counsel Elise Rose and Administrative Division Chief Joan Allison attended a meeting called by the State Consumer Services Agency regarding implementation of the recent Executive Orders and Management Memoranda pertaining to contracting out for goods and services where contracts are proposed to be entered into under CMAS, MSA, or where the

**The State Personnel Board Summary Minutes can be obtained at the following Internet address:

<http://www.spb.ca.gov/spbmeet/spbminrd.cfm>

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amount of the contract exceeds \$100,000 and there has been no competitive bidding.

- B. State Personnel Board has been provided a report on the Discrimination Complaint Process for information only at this point.
- C. Hearing on Decentralized Testing is scheduled for the July 9, 2002, Board meeting.
- D. Hearing on proposed "merit" regulation will be scheduled for the July 23, 2002, Board meeting if the Board members are agreeable.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation:

Court of Appeal

- A. Jacobs v. California Department of Justice - Court of Appeal affirmed a trial court judgment upholding the Board's decision denying Mr. Jacobs merit appeal pertaining to interpretation of the requirement that only experience gained after attorneys are admitted to the bar counts towards meeting minimum qualifications in the Deputy Attorney General classification.
- B. State Personnel Board (SPB) v. Department of Personnel Administration/International Union of Operating Engineers and California State Employees Association Appellants have filed their opening briefs in this case in which the trial court declared Memoranda of Understanding provisions providing for arbitration of employee discipline unconstitutional. SPB's Legal Division is preparing a brief in opposition.

Superior Courts

- C. Connerly v. State Personnel Board - Petitioner has filed a Notice of Motion and Motion for Award of

Reasonable Attorney's Fees seeking from named respondents and the real parties in interest double \$404,351.60, the actual amount of attorneys fees incurred (2 x \$404,351.60), under the private attorney general theory, Code of Civil Procedure 1021.5. The hearing is scheduled for July 25, 2002.

D. State Personnel Board v. Department of Personnel Administration/California State Employees Association

On June 14, 2002, the Board obtained a temporary stay of the "post and bid" provisions in the Memoranda of Understanding (MOU) for bargaining units 1, 4 and 11, and an alternative writ of mandate setting a hearing on the Board's suit for declaratory and injunctive relief, as well as for a writ of mandate, for July 12, 2002, at 9:00 a.m. before Judge Connelly, Department 33. The temporary stay was granted on the basis of the court's finding that the Board had standing to bring the action and would likely prevail on the merits of its contention that the "post and bid" provisions in the MOU and implementing legislation are unconstitutional because they require departments, when making appointments to designated classifications, to rely solely on seniority when selecting from among eligible candidates. The Court also found irreparable harm inherent in a deprivation of a fundamental constitutional right.

E. California Department of Corrections (CDC) v. State Personnel Board/Krupp - The Board has received its first lawsuit challenging a determination made in a Notice of Findings in a whistleblower case. The Board adopted the Notice of Findings of the Executive Officer that including a finding that CDC retaliated against Mr. Krupp when it reassigned him to a different position with few duties and no subordinates after he provided information to the Office of the State Auditor that conflicted with the information CDC had provided regarding us of overtime. The Board ordered CDC to find Mr. Krupp a different position comparable to that from which he was removed.

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Other

- A. State Personnel Board's Council of Counsels - The group met on June 6, 2002. The primary issue on the agenda was group discussion of a draft of the proposed Settlement/Pre-Hearing Conference Pilot Project. The group was briefed on use of the Full-Day/Multiple Day Initial Setting Pilot Project and the Fast Track Hearing Pilot Project and some of the issues the Appeals Division has dealt with regarding those pilots. The group was also briefed on the status of pending legislation and regulations impacting cases heard by the evidentiary unit within the appeals division.
- B. State Employee Mediation Program Gatekeepers Forum - On June 14, 2002, Gatekeepers for SEMP were invited to participate in a half-day forum to discuss issues of mutual concern and to received training on the gatekeeper function. The forum was led by Matilda Bannerman Richter, Elise Rose and Larry Hoover and was well-attended by invited gatekeepers.

4. REPORT ON LEGISLATION - Judy Balmain

The State Personnel Board voted on the following:

- A. AB 2268 (Horton) will inform dismissed state employees of the requirements for gaining re-entry into the state's workforce; ensures that Skelly officers are impartial and well-trained; ensures that department EEO officers are autonomous and impartial; and to provide the legislature with information as to the costs to the state of discrimination litigation. **SUPPORT IF AMENDED**
VOTE: Alvarado, Elkins, Bos - Aye.
- B. AB 2752 (Alquist) would grant to CalOSHA the authority to conduct hearings and issue decisions with respect to disciplinary actions taken against state employees who have exercised their rights under the occupational safety and health laws conflicts with State Personnel Board constitutional authority to review disciplinary actions taken against state employees. **OPPOSE UNLESS AMENDED**

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Vote: Alvarado, Elkins, Bos - Aye.

- C. SB 1347 (Brulte and Polanco) would change the state's budgeting process from baseline budgeting to zero-based budgeting. **OPPOSE**
VOTE: Alvarado, Elkins, Bos - Aye.

The Board was advised of the following:

- A. SB 987 (Escutia) which revises the Dymally-Alatorre Bilingual Services Act was heard in Assembly Business and Professions Committee, the bill passed out of committee, Judy Balmain testified for the State Personnel Board. The Board's position is support.

5. ORAL ARGUMENT

Oral argument in the matter of PAUL SULIER
CASE NO. 01-2626. Appeal from demotion.
Department of Corrections.

Persons Participating:

James D. Madison, Senior Staff Counsel, representing
Department of Corrections
Mark R. Kruger, Attorney at Law, representing Paul Sulier

ACTION: Submitted

6. PRESENTATION OF SELECTION ANALYST CERTIFICATES FOR THE FOLLOWING:

Annette Roberts, Bertha Lopez, Betty Scott, Beverly C. Lamera, Carol MacMillan, Charmaine Traywick, Daphne Baldwin, Elizabeth Gamez, Fermin J. Perez III, Fil Tucker, Kathleen Daniel, Kathy Vagg, Sherrie Scott and Susan M. Vellutini.

ACTION: Presentations made.

BOARD ACTIONS

7. STATE PERSONNEL BOARD SUMMARY MINUTES OF MAY 21, 2002

ACTION: Adopted on June 18, 2002

VOTE: Alvarado, Elkins, Bos - Aye.

8. ACTION ON SUBMITTED ITEMS

ACTION: See pages 17-19.

9. ADMINISTRATIVE LAW JUDGE CASES

On June 18, 2002, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

COURT REMAND DECISION

KEVIN MCDOWELL, CASE NO. 99-5275

Appeal from discrimination complaint

Correctional Officer

Department of Corrections

ACTION: The Board concluded that they lacked jurisdiction over appellant's complaint concerning his seniority date.

CHIEF COUNSEL RESOLUTIONS

SVETOZAR STUKOVSKY, CASE NO. 99-3583

Appeal from dismissal

Physician and Surgeon, CF

Wasco State Prison

Department of Corrections

ACTION: The Board granted the request for the issuance of an order to show cause

PROPOSED DECISIONS

VICTOR CASEY, CASE NO. 01-2083

Appeal from five percent reduction in salary for 12 months

Correctional Officer

Represa - California State Prison

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Department of Corrections

ACTION: Five percent reduction in salary for 12 months sustained

PATRICK OSBORNE, CASE NO. 01-1934

Appeal from 44 work days suspension

Transportation Surveyor

Department of Transportation

ACTION: Forty-four work days suspension sustained

PATRICK OSBORNE, CASE NO. 01-1586

Appeal from ten percent reduction

in salary for five months

Transportation Surveyor

Department of Transportation

ACTION: Ten percent salary reduction for five months sustained

TERESA LOZANO, CASE NO. 01-2361L

Appeal from termination of Limited

Examination and Appointment Program (LEAP)

Office Assistant

Department of Industrial Relations

ACTION: Termination of LEAP appointment sustained

BILL SMITH, CASE NO. 01-2631

Appeal from dismissal

Electrician I

Patton State Hospital

Department of Mental Health

ACTION: Dismissal sustained

SHERI WILLIAMS, CASE NO. 01-4085

Appeal from rejection during probationary period

Tax Auditor, Range A

Board of Equalization

ACTION: Rejection during probationary period sustained

FRANKLIN FOSTER, CASE NO. 02-0031

Appeal from dismissal

Janitor

Department of General Services
ACTION: Dismissal sustained

ROBERT ORTEGA, CASE NO. 01-1627
Appeal from dismissal
Youth Correctional Counselor
El Paso De Robles Youth Correctional Facility
Department of the Youth Authority
ACTION: Dismissal sustained

ARTHUR MARTINEZ, CASE NO. 01-3355
Appeal from five working days suspension
Employment Program Representative
Employment Development Department
ACTION: Five working days suspension sustained

CERETHA SHERRILL, CASE NO. 00-3182
Appeal from six pay period suspension
Supervisor of Academic Instruction
N.A. Chaderjian Youth Correctional Facility
Department of the Youth Authority
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself.

PETITIONS FOR REHEARING

CAROLINE CASTRO, CASE NO. 01-1540
Appeal from six months suspension
Deputy Labor Commissioner I
Department of Industrial Relations
ACTION: Petition for rehearing filed by appellant denied

CHAUNCEY REESE-JONES, CASE NO. 01-2966
Appeal from formal reprimand
Correctional Officer
Ironwood - State Prison
Department of Corrections
ACTION: Petition for rehearing filed by appellant denied

OLIVER ALBERT, CASE NO. 01-1639
Appeal from dismissal
Correctional Officer
San Quentin - California State Prison
Department of Corrections
ACTION: Petition for rehearing filed by appellant denied

EDDIE FRANCO, CASE NO. 99-0756
Appeal from dismissal
Youth Correctional Counselor
Department of the Youth Authority
ACTION: Petition for rehearing filed by respondent
denied

10. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: See pages 20-23.

11. WITHHOLD APPEALS

On June 18, 2002, the Board adopted the following
decisions presented by Elise Rose, Chief Counsel,
California State Personnel Board.
VOTE: Alvarado, Elkins, Bos - Aye.

DAVID ALLEVATO, CASE NO. 01-1467
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

VONDA ALLEY, CASE NO. 01-2440
Correctional Officer
Department of Corrections
ACTION: DENIED

PAUL BLUMENTHAL, CASE NO. 01-2688
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

HENRY BORREGO JR., CASE NO. 01-2441
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

ERIC CLEVELAND, CASE NO. 01-2507
Classification: Fire Captain
Department of Forestry and Fire Protection

ACTION: DENIED

ALEXANDER DELEON, CASE NO. 01-1693
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

WESLEY GHORMLEY, CASE NO. 01-2301
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

JOEL GONZALEZ, CASE NO. 01-2302
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

CELIA GUARDADO, CASE NO. 01-2287
Classification: Youth Correctional Officer
Department of the Youth Authority
ACTION: GRANTED

MAURICE HAWKINS, CASE NO. 01-1997
Classification: Motor Vehicle Field Representative
Department of Motor Vehicles
ACTION: DENIED

SHEREMOYA HILL, CASE NO. 01-2125
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

DARRYL HORN, CASE NO. 01-2549
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

DAVID JOHNSON, CASE NO. 01-2015
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

ACHER LEVY, CASE NO. 01-1314
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

YLSE LYNN, CASE NO. 01-2295
Classification: Cadet, CHP
California Highway Patrol
ACTION: DENIED

BRIAN OLIVER, CASE NO. 01-2177
Classification: Motor Vehicle Field Representative
Department of Motor Vehicles
ACTION: DENIED

JULIAN REYES, CASE NO. 01-1567
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

FRANK ROSA, CASE NO. 01-0629
Classification: Youth Correctional Officer
Department of the Youth Authority
ACTION: DENIED

RONALD SCOTT, CASE NO. 01-2405
Classification: Motor Vehicle Field Representative
Department of Motor Vehicles
ACTION: DENIED

SCOTT SOLES, CASE NO. 01-2409
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

IUPATI TASI, CASE NO. 01-2407
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

MICHAEL TESLAR, CASE NO. 01-1736
Classification: Fire Fighter II (Paramedic)
Department of Forestry and Fire Protection
ACTION: GRANTED

MARCOS VALDOVINOS, CASE NO. 01-2117
Classification: Correctional Officer

Department of Corrections
ACTION: DENIED

SCOTT WHITED, CASE NO. 01-1311
Classification: Cadet, CHP
California Highway Patrol
ACTION: DENIED

12. MEDICAL APPEALS

On June 18, 2002, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.
VOTE: Alvarado, Elkins, Bos - Aye.

DOMINGO CANIZALES, CASE NO. 02-0941
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

JOHN CARREON, CASE NO. 02-1468
Classification: Hospital Police Officer
Department of Mental Health
ACTION: GRANTED

GARRICK CHARLTON, CASE NO. 02-0940
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

STEVE DELACRUZ, CASE NO. 02-0942
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

GLORIA GALVAN, CASE NO. 02-1474
Classification: Parole Agent I, Adult Parole
Department of Corrections
ACTION: GRANTED

ERNEST LOPEZ, CASE NO. 01-3270
Classification: Youth Correctional Officer
California Youth Authority
ACTION: GRANTED

SARA MICHELS, CASE NO. 01-3184
Classification: Correctional Office
Department of Corrections
ACTION: DISMISSED

RONALD NEGUS, CASE NO. 01-3731
Classification: Cadet, CHP
California Highway Patrol
ACTION: DENIED

SAMUEL PISANO, CASE NO. 02-1048
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

13. MINIMUM QUALIFICATION

MERIT ISSUE COMPLAINTS

On June 18, 2002, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

(Minimum Qualification)

CARLLIE WILLIAMS, CASE NO. 01-1881
Classification: Executive Secretary I
Department of Water Resources
ACTION: GRANTED

(Merit Issue Complaints)

DANIEL GREGORY, CASE NO. 01-2300
Classification: State Park Ranger Cadet
Department of Parks and Recreation
ACTION: GRANTED

FRANK VIGIL, CASE NO. 01-1433
Classification: Painter's Helper, Seasonal
Exposition and State Fair (Cal Expo)
ACTION: DENIED

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14. RULE 211 APPEAL

On June 18, 2002, the Board adopted the following decision presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

LAURA YOUNG, CASE NO. 01-3404

Classification: Office Technician (T)

Department of Forestry and Fire Protection

ACTION: GRANTED

15. REQUEST TO FILE CHARGES CASES

PETITIONS FOR REHEARING CASE

On June 18, 2002, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

(Request to File Charges Cases)

IMTIAZ AHMAD, CASE NO. 01-2567

Classification: Program Technician

Victim Compensation & Government

Claims Board

ACTION: DENIED

SUSAN LINDSAY, CASE NO. 01-3098

Classification: Assistant Caltrans Administrator

Department of Transportation

ACTION: DENIED

VICTOR REA, CASE NO. 01-0656

Classification: A former CEA I

Department of Education

ACTION: DENIED

(Petition for Rehearing)

JEAN RUPERT, CASE NO. 01-1470P

Classification: Correctional Lieutenant

Department of Corrections

ACTION: DENIED

16. NON-HEARING CALENDAR

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On June 18, 2002, the Board adopted items A-E. These items were presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

- A. SENIOR VOCATIONAL REHABILITATION COUNSELOR (SAFETY)
The Department of Mental Health proposes to establish the class of Senior Vocational Rehabilitation Counselor (Safety) to define public protection duties performed and the special physical characteristics required of incumbents; and establishment of a 12-month probationary period.
- B. DISCOVERY REGULATIONS
State Personnel Board proposes regulations to clarify the discovery process that will apply to evidentiary hearings concerning specified complaints or appeals, in some cases also involving alleged discrimination or retaliation.
- C. WHISTLEBLOWER RETALIATION REGULATIONS
State Personnel Board proposes regulations to clarify and codify the process for filing, processing, hearing, and deciding complaints of whistleblower retaliation in state service.
- D. YOUTH CORRECTIONAL COUNSELOR
YOUTH CORRECTIONAL OFFICER
The Department of the Youth Authority proposes to revise the classification of Youth Correctional Counselor to broaden the minimum qualifications to allow for the transfer of Youth Correctional Officers.
- E. PERSONNEL/PAYROLL SPECIALIST
SENIOR PERSONNEL SPECIALIST
SENIOR PAYROLL SPECIALIST
Proposed amendment to the June 19, 2001, and the August 7-8, 2001, Non-Hearing Calendar item, Personnel/Payroll Specialist Board item. Based on a mediated agreement between the California State Employees Association (CSEA) and the Department of Personnel Administration (DPA) to allow for additional movement to the Senior Personnel

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Specialist and Senior Payroll Specialist
classifications.

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

- A. CONSERVATIONIST I, CALIFORNIA CONSERVATION CORPS
(CCC)
CONSERVATIONIST II, CCC
CONSERVATIONIST I (ENERGY), CCC
CONSERVATIONIST II, NURSERY, CCC
The California Conservation Corps
(CCC) proposes revisions to the classifications of
Conservationist I
and II, CCC; Conservationist I (Energy), CCC; and
Conservationist II, Nursery, CCC; and revisions to
Alternate Range Criteria 124.

ACTION: Noted

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

- A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY
UNDER CONSIDERATION

- (1) ASSISTANT DIVISION CHIEF, DIVISION OF COMMUNITY
AFFAIRS

- The Department of Housing and Community
Development proposes to allocate the above
position to the CEA category. The Assistant
Division Chief, Division of Community Affairs
will be responsible for the day-to-day
operations of the division, comprised of the
Programs and Marketing Branch and the Monitoring
and Management Branch. The position will direct
the administrative activities of the division,
will directly supervise the branch chiefs, and
will act as the chief policy advisor to the
Deputy Director on all housing issues. The
department indicates that the position will be
at the second organizational level and will
report to the Deputy Director.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
ESTABLISH NEW CEA POSITIONS

- (1) CHIEF, ENFORCEMENT DIVISION
The Air Resources Board's request to allocate
the above position to the CEA category has been
approved effective January 10, 2002.

ACTION: Noted

19. WRITTEN STAFF REPORT FOR BOARD INFORMATION

- A. June 2002 Annual Report to the Governor and the
Legislature on Whistle Blower Retaliation Complaints
- B. June 2002 Report to the Legislature on the Status of
the State's Discrimination Complaint Process
- C. 2000-2001 Fiscal Year Annual Census of Employees in
the State Civil Service

ACTION: Reports presented.

A D J O U R N M E N T

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SUBMITTED

1. State Personnel Board proposes regulations to clarify and codify the process for filing, processing, hearing, and deciding complaints of Whistleblower Retaliation in State Service. (Hearing held February 7, 2002).

ACTION: Adopted on June 18, 2002. See Non-Hearing Calendar item "C".

VOTE: Alvarado, Elkins, Bos - Aye.

2. State Personnel Board proposes regulations to clarify the Discovery Process that will apply to evidentiary hearings 1. concerning specified complaints or appeals, in some cases also involving alleged discrimination or retaliation. (Hearing held February 7, 2002).

ACTION: Adopted on June 18, 2002. See Non-Hearing Calendar item "B".

VOTE: Alvarado, Elkins, Bos - Aye.

3. STATE PERSONNEL BOARD STAFF'S REPORT ON THE STATUS OF THE STATE DISCRIMINATION COMPLAINT PROCESS. (Hearing held March 5, 2002).

NO ACTION

4. MARTIN GREENHALGH, CASE NO. 01-1055P. Appeal from five-percent reduction in salary for 12 months. Department of Corrections. (Hearing held March 5, 2002).

ACTION: On June 18, 2002, adopted Board decision revoking the five-percent reduction in salary for 12 months.

VOTE: Alvarado, Elkins, Bos - Aye.

5. SENIOR VOCATIONAL REHABILITATION COUNSELOR (SAFETY)
The Department of Mental Health proposes to establish the class of Senior Vocational Rehabilitation Counselor (Safety) to define public protection duties performed and the special physical characteristics required of

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incumbents; and establishment of a 12-month probationary period. (Presented March 19, 2002).

ACTION: Adopted on June 18, 2002. See Non-Hearing Calendar item "A".

VOTE: Alvarado, Elkins, Bos - Aye.

6. KIMBERLY ARNOLD, CASE NO. 00-3959. Appeal from dismissal. Department of Corrections. (Oral argument held May 7, 2002).

NO ACTION

7. STEPHANIE RODRIGUEZ, CASE NO. 99-5150; DARRELL SNELL, CASE NO. 00-0002; RENEE VILLARREAL, CASE NO. 00-0030; AND WAYNE VILLARREAL, CASE NO. 00-0033. Appeal from suspension. Department of Corrections. (Oral argument held May 7, 2002).

NO ACTION

8. EXPEDITED HEARINGS - PROPOSED AMENDMENT TO STATE PERSONNEL BOARD RULE 52.4. (Hearing held May 7, 2002).

NO ACTION

9. PETE REECE, CASE NO. 00-1605. Appeal from denial of request for reasonable accommodation. Department of State Compensation Insurance Fund. (Hearing held March 5, 2002).

ACTION: On June 18, 2002, adopted Board decision granting appeal from denial of reasonable accommodation.*
Vote: Alvarado, Elkins, Bos - Aye.

*Adopted as Precedential Decision 02-06. [NOTE: Precedential Decisions of the State Personnel Board are published and available by subscription from Continuing Education of the Bar (CEB) in Berkeley. To subscribe, call CEB, toll free, at (800) 924-3924.]

10. ANSWER ON APPEALS FILED WITH STATE PERSONNEL BOARD.
PROPOSED AMENDMENT TO STATE PERSONNEL BOARD RULE 63.
(Hearing held May 7, 2002).

NO ACTION

11. DANIEL RUIZ, CASE NO. 01-1118. Appeal from dismissal.
Department of Developmental Services. (Oral argument
held May 7, 2002).

ACTION: On June 18, 2002, adopted Board decision
revoking the dismissal.

VOTE: Alvarado, Elkins, Bos - Aye.

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending

before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on June 18, 2002.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Alvarado, Elkins, Bos, - Aye.